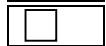


AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: MAY 6, 2009

DEPARTMENT: CITY MANAGER**DIRECTOR: ELIZABETH N. FRETWELL**☐ Consent ☒ Discussion**SUBJECT:**

ADMINISTRATIVE:

Discussion and possible action regarding the Second Amended And Restated Agreement To Design, Construct And Lease A Performing Arts Center by and among Las Vegas Performing Arts Center Foundation, a Nevada non-profit corporation, City Parkway V, Inc., a Nevada not-for-profit corporation, and the City of Las Vegas, Nevada, a political subdivision of the State of Nevada, for the site commonly known as Parcel H/I on Union Park, located north of the intersection of Bonneville Avenue and Grand Central Parkway - Ward 5 (Barlow)

Fiscal Impact**No Impact****Augmentation Required****Budget Funds Available****Amount:****Funding Source:****Dept./Division:****PURPOSE/BACKGROUND:**

This is the second amendment to the agreement with the Las Vegas Performing Arts Center Foundation (PAC). The amendment clarifies multiple items within this agreement. One item that is modified in this amendment is the fact that the city, not the PAC, will actually be building the facility through a Construction Manager At Risk (CMAR) contract. Additional changes include removing the small hall from the project and describing the new development plan for the small hall site.

RECOMMENDATION:

Approval.

BACKUP DOCUMENTATION:

1. Second Amended and Restated Agreement to Design, Construct and Lease a PAC
2. Amended and Restated Agreement to Design, Construct and Lease a PAC
3. Amended and Restated Agreement to Design, Construct and Lease a PAC, Exhibits G-H
4. Letter from Steven L. Anderson dated September 23, 2008
5. Disclosure of Principals
6. Submitted at Meeting – Correspondence from The Smith Center by Staff for Items 54, 71, 75 and 76

Motion made by RICKI Y. BARLOW to Approve

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

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RICKI Y. BARLOW, LOIS TARKANIAN, STEVE WOLFSON, OSCAR B. GOODMAN, GARY REESE, STEVEN D. ROSS, DAVID W. STEINMAN; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

MAYOR GOODMAN read and submitted a letter from DON SNYDER, Chair of the Smith Center for the Performing Arts.

BILL ARENT, Acting Director of the Office of Business Development, briefly explained the purpose of Items 54, 71, 75 and 76. Item 54 defines the roles and responsibilities of the City and the Las Vegas Performing Arts Center (LVPAC) during construction. It modifies the City's parking commitment, reducing the number of spaces to be provided by the City to 1,200. Also, Item 54 assigns the rights of the City and the LVPAC for future development of the site.

Item 71 recommends that the construction contract for the Center be awarded to the Whiting Turner Contracting Company (Whiting-Turner). The financing requires by law that the City manage the Center's construction as a public work. The contract includes a contingency clause and provides contingency funding to ensure the project is completed on time and under budget.

Item 75 approves the use of Redevelopment Agency (RDA) funds by the City for construction of the project. The funds are proceeds from the successful RDA bond sale and can be applied to the contingency funding. A portion of the funds can also be repaid if revenue is available from the rental car tax. The LVPAC will be providing \$3 million toward construction costs.

Item 76 is the resolution to accept \$75 million in grant funding from the Reynolds Foundation for construction costs. The City will accept the funds and pass them to Whiting-Turner in a manner that will benefit all parties. MR. ARENT thanked the Reynolds Foundation for their support, noting the grant monies were just a portion of the Foundation's overall funding commitment of \$150 million to the project.

In response to COUNCILMAN WOLFSON'S questions, MR. ARENT stated that the City is a majority partner in this project since the City has made a general obligation pledge, provided land at no cost and is providing funding for site remediation. The operating endowment from the Reynolds Foundation was key in making this project possible. MR. ARENT noted that the operating agreement between the City and the LVPAC stated that the Smith Center would pay all operating costs. City staff and representatives from the Smith Center would continue to work together on the agreement to ensure it meets the needs of both parties.

MYRON MARTIN, 241 West Charleston Boulevard, President of the Smith Center for the Performing Arts, thanked MAYOR GOODMAN for reading MR. SNYDER'S letter and noted that representatives from the Smith Center's board and staff as well as members of the design team and Whiting-Turner were in the audience. After several years of hard work, the project was ready to move forward and over 1,000 construction jobs would be created as a result. MR. MARTIN noted that Whiting-Turner had been named as the Construction Manager At-risk by the City's Purchasing Department, which allowed them to participate in the design process. He

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also thanked the Donald W. Reynolds Foundation for their support and stated that the ground-breaking would take place later in May 2009.

DR. KEITH BOMAN, 1516 Canyon Ledge Court, Vice Chairman of the Smith Center for the Performing Arts, thanked the Mayor and Council for their support and City staff for their hard work. The Center is an example of a successful public-private partnership and will become a cultural landmark like the Lincoln Center in New York.

MAYOR GOODMAN noted that the Smith Center will become the City's cultural heart and part of its legacy. It will also create much-needed jobs and further the development of Union Park. He thanked the City Manager's Office, the Office of Business Development, the Smith family, the LVPAC and the Council for their support of this project.

COUNCILMAN BARLOW asked MR. ARENT to discuss the project's employment plan and minority participation. MR. ARENT stated that the project is considered a public work and will follow prevailing wage rates. The RDA requirements do not have statutory power due to the project's specific funding structure, so this project does not have an employment plan.

LUCILLE HENDERSON, Purchasing and Contracts Division, appeared with PAUL SCHMIDT, Whiting-Turner Contracting Company, who explained that the Construction Manager At-risk required full disclosure of all sub-contractors to the City, the owner of this project. Whiting-Turner had reached out to the sub-contracting industry and encouraged the involvement of minority-owned companies. Whiting-Turner will provide monthly reports to the City's representatives and MR. SCHMIDT underscored the transparency of the bidding process.

COUNCILMAN BARLOW thanked MR. SCHMIDT for his explanation of Whiting-Turner's efforts to involve minorities, noting that the jobs would be appreciated by the construction industry and the community. He also congratulated everyone involved with this project.

CITY ATTORNEY BRAD JERBIC requested that the Council take action on the items in a specific order and take separate votes on each item.